

Recommendations for changes to the Counterfeit Avoidance and Detection of Electronic Parts DFARS

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Delete the CAS requirement and make applicable to all contractors including FFRDCs and Educational Institutions

- Apply the 48 CFR 246.870 clause to all contractors
 - *A system that is ultimately delivered to the government needs to be a “trusted” system; it does not matter if it is built by a CAS or Non-CAS contractor*
- For National Security Space Programs, the requirement for the avoidance, detection, prevention and reporting of counterfeit materials is placed on contract and is required to be flowed down to all subcontractors and their sub-tier contractors regardless of CAS or Non-CAS.
 - *This comply with 48 CFR 246.870-2b(9) - “Flow down of counterfeit detection and avoidance requirements”*
- All contractors have a responsibility to ensure that the system does not contain counterfeit parts and materials

One counterfeit part has the potential to degrade or cause the system to fail



Suggestion 2

Counterfeit Avoidance and Detection should apply to mechanical piece parts and materials

- Electronic piece parts are not the only type of components that have been counterfeited
- Mechanical piece parts, fasteners, bolts and nuts, have been counterfeited
 - *They are easier to counterfeit than electronic parts*
 - *Could be (potentially) more damaging than a counterfeit electronic part*

The Contractors must perform due diligence on procuring all parts and materials; one counterfeit component can take out a system



Suggestion 3 *Supporting Confirmed and Suspect Counterfeit parts to the Government Contracting Office and the Office of Inspector General*

- Prior to reporting suspect or confirmed counterfeit parts into the GIDEP system, the government contracting officer (GCO) and their Office of Inspector General (OIG), needs to be notified first.
- It is the responsibility of the GCO for the disposition of all equipment designed into, procured for, and built into the system being acquired
 - *Since these counterfeits were purchased using government funding, the GCO “owns” these items and need to determine how they are to be dispositioned*
- The GCO needs to work with the OIG to determine to impacts to the system as well as impacts if these counterfeit items are being procured for other government systems
 - *What are the risks if the counterfeit components were not detected*
- ***The GCO needs to provide direction on what to do with the counterfeit items***
The OIG has the responsibility to get the law enforcement community engaged



Suggestion 4 *Supporting Counterfeits to the Department of Justice National Intellectual Property Rights Coordination Center*

- One of the criteria in 48 CFR 246.870-2b(3), is “Processes to Abolish Counterfeit Parts Proliferation”
- The DoD and their contractors are not responsible to Stop or develop “Processes to Abolish Counterfeit Parts Proliferation”
- Only the law enforcement community and both the executive and legislative branches of government can “Abolish” counterfeit parts proliferation
- Therefore, the contractors in addition to reporting to GIDEP and to the GCO/OIG (suggestion 3), they also need to file a report with the Department of Justice’s National Intellectual Property Rights Coordination Center (NIPRCC)
 - *This is the DOJ group that is responsible for the investigation and prosecution of the counterfeit material suppliers*

Provide the DOJ NIPRCC with the information they need to “take out” the counterfeiters



Suggestion 5

Allow the Original Component Manufacturers to determine the best method of providing long term traceability

- Allow the original component manufacturers (OCMs) of the electronic piece parts determine the best methodology for marking the parts for traceability
 - *DNA is just one of many suitable technologies but may not be suitable for all manufacturers*
- Modify MIL-PRFs 19500, 38534, 38535 to include a requirement for a traceability marking and maintaining traceability data
 - *The OCM would have to be able to authenticate their parts up to 15 to 20 years after the date of manufacturer*
 - *This will allow the DoD contractors to contact the OCM to verify the authenticity of the parts*
- Add a requirement for the OEMs (contractors) to maintain an “As-Built” parts and materials list
 - *For National Security Space programs, this is a standard deliverable (CDRL) that provides full traceability on all the PM&P component built into a satellite system*

Thank you